

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ABUL MOSTOFA, on behalf of himself and all other
similarly situated employees,

Plaintiff,

-against-

NBTY MANUFACTURING NY, INC., d/b/a
NATURE'S BOUNTY,

Defendant.

11-cv-3423

(JS) (ARL)

STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE

PLEASE TAKE NOTICE that, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff and Defendant (the "Parties"), by and through their respective counsel, hereby stipulate to the dismissal of the above-captioned action with prejudice as to the individual claims of Plaintiff (including waiving his ability to act as a representative of any purported class), and without prejudice as to the putative class members. In support of this Stipulation, the Parties represent:

1. The Parties have a *bona fide* dispute regarding the merits of Plaintiff's claims.
2. The Parties desire to fully and finally resolve their dispute without the expense of further litigation.
3. The Parties have entered into a confidential Settlement Agreement, General Release and Confidentiality Agreement (the "Agreement") which includes a release of claims under the Fair Labor Standards Act.
4. The Parties represent to the Court that the Agreement: (a) is fair to all Parties; (b) reasonably resolves a *bona fide* disagreement between the Parties with regard to the merits of

Plaintiff's claims; and (c) demonstrates a good faith intention by the Parties that Plaintiff's claims be fully and finally resolved, not subject to appellate review, and not re-litigated in whole or in part at any point in the future.

5. The Parties respectfully request that the Court enter an Order, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, dismissing the Action with prejudice as to the individual claims of Plaintiff (including Plaintiff's waiver of his ability to act as a representative of any purported class), and without prejudice as to the putative class, with each side to bear his or its own attorneys' fees and costs.

6. Counsel for Plaintiff consent to the filing of this stipulation by counsel for Defendant.

Dated: October 28, 2011

LAW FIRM OF LOUIS GINSBERG, P.C. LITTLER MENDELSON, P.C.

By: /s/ LOUIS GINSBERG
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Attorneys for Defendant

SO ORDERED:

Firm

The Court has reviewed the parties' settlement agreement and finds it to be fair and reasonable. The Clerk of the Court is respectfully directed to file the settlement agreement under seal and to mark this case closed.

SO ORDERED:

/s/ JOANNA SEYBERT

Joanna Seybert, USDJ

Dated: *11-1-11*

Central Islip, NY